

A S C a m a c h o

DIRECTOR, BUREAU OF FISHERIES AND AQUATIC RESOURCES (BFAR)

At present, only exports of ornamental fishes to countries that require commodity clearance and CITES permit pass through the BFAR/One-Stop Export Documentation Center. In 1998, 261,622 kg of fish and fishery products were exported, valued at US\$3,577,203.

[The International MarineLife Alliance (IMA) recorded 1,113.123 kg live aquarium fish (gross weight) exported by 32 companies in 1998. On the other hand, the National Statistics Office

recorded 5,444,793 kg of live ornamental fish, valued at US\$6,396,100 (freight-on-board)].

BFAR has engaged the services of IMA to test marine ornamental fishes for cyanide in the Cyanide Detection Test Laboratories in Puerto Princesa, Tacloban City, Davao City, Zamboanga City, and Pasay City. Aside from cyanide detection, trainings on the use of net in catching ornamental marine fishes have also been conducted in several areas so that sustainable collection will be attained. BFAR also participates in dialogues and consultations being conducted by the industry on marine ornamental fishes.

-- INTERVIEW BY AP SURTIDA

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Some import / export laws affecting the ornamental fish trade

By **AP Surtida**

If you are considering the import/export ornamental fish business, it would be wise to familiarize yourself with some laws about the trade, particularly if you're exporting to the US. The purpose of these laws is conservation of the earth's natural resources. They were enacted to preserve species for future generations. Ron Smith (*Tropical Fish Hobbyist*, 1998) enlightens us on some of these laws.

Philippine Fisheries Code of 1998

Under Section 97 and 100, Chapter VI of Republic Act No. 8550, otherwise known as the Philippine Fisheries Code of 1998, it is unlawful to fish or take, export or import rare, threatened or endangered species as listed in the CITES (see below) and as

determined by the government agency concerned. Violation is punishable by 8-20 years imprisonment and/or a fine of P80,000-120,000 and forfeiture of catch and the cancellation of fishing permit.

Under Section 88, Chapter VI, it is unlawful for any person to catch, take, gather or cause to be caught any fishery species in Philippine waters with the use of electricity, explosives, noxious or poisonous such as sodium cyanide which will kill, stupefy, disable or render unconscious fish or fishery species. It is likewise unlawful for any person, corporation or entity to possess, deal in, sell or in any manner dispose of, any fish or fishery species which have been illegally caught, taken, or gathered.

CITES

The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) is an international treaty.

CITES lists species in three appendices I, II, and III. Appendix I species are usually rare species and trade is restricted for scientific exchange only.

Appendix II are species that are very common in the wildlife trade, trade is regulated requiring special permits from the exporting country. For example, all stony corals are listed as Appendix II, so when exported they must be accompanied by a CITES Appendix II export permit from the exporting country.

Appendix III species are regulated when coming from specific countries and usually treated as Appendix II.

The CITES member nations meet periodically to update the Appendices. Some species change categories, while other species are added or deleted.

The ESA

Endangered Species Act (ESA) is a US Law that enforces CITES and has its own list of threatened and endangered plants and animals.

The ESA allows little commercial trade of the endangered and threatened species listed and imposes strict regulations and enforcement.

Many get confused. What is the difference between CITES and ESA? CITES allows for international trade with permits of certain Appendix I-listed animals or plants that are captive bred and marked. However, in the US, the ESA further restricts the international trade of US-listed endangered or threatened species, even if they are captive bred.

A prime example is the Asian arowana (*Scleropages formosa*). Most people realize this fish is restricted, but many believe that the captive bred and sometimes-tagged (microchip) fish are legal to export to the US.

This is inaccurate. In most countries, like Canada, captive-bred arowanas may be imported from Asia with a CITES permit. But in the US, the ESA prohibits the importation/exportation of arowanas.

CITES has exemptions for international trade of some captive-bred wildlife. The US has further restricted the trade of these species through the ESA, the

arowana being one example of that. Permits are granted to zoos, public aquaria, and research projects for ESA, but they are not easily obtained.

Furthermore, exporting parts or products of such animals is also a violation of ESA. Exporting a can of sea turtle soup to the US would place you in violation of this act. The items are confiscated. If it's a live animal, it's usually turned over to a public zoo or aquarium who would be familiar with the care of the confiscated species.

The ESA lists threatened species, critical habitat, and any special rules, which apply to a particular species. For more information on this act, it is available from the US Fish and Wildlife Service and the US Government Printing Office.

LACEY Act

In addition to CITES and ESA, there is the Lacey Act which imposes severe penalties and fines for violating laws that deal with interstate trade, sale or abuse of protected species of plants and animals. This is strictly an American act and applicable to the US alone.

This Act also imposes strict civil and criminal penalties for false labeling. Import/export violations under this act constitute felonies.

Also it is the responsibility of the person involved with interstate or foreign commerce of any plant or animal to investigate whether the wildlife involved is in violation of any law foreign or domestic including the first two laws described earlier. The Lacey Act seems on the surface

to be an unfair enforcement of foreign regulations. However, many times it is the US that honors many foreign laws when other countries fail to fulfill their obligations under international treaties or do not have the capability to enforce their own country's regulations.

Other regulations

In addition to these three laws there are additional requirements for US wholesalers who import tropical fish from various countries. They are required to be licensed by the United States Fish and Wildlife Service (US-FWS). Customs brokers usually assist in clearing these shipments through US customs. In addition, US-FWS inspects the shipments to verify that the shipment is in compliance with the exporting country's regulations, US regulations, and humane transport regulations. A fee is charged for every shipment imported or exported. Wildlife shipments are also required to clear US-FWS through one of their designated ports of entry in the US.

REFERENCES

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